

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

BRIAN WASSON,

Petitioner,

v.

TRACY HIGHTOWER,

Respondent.

HONORABLE JEROME B. SIMANDLE

Civil Action
No. 16-1552 (JBS)

MEMORANDUM OPINION

SIMANDLE, Chief Judge:

This matter comes before the Court on Petitioner's motion for a temporary restraining order ("TRO") under Federal Rule of Civil Procedure 65. (Motion, Docket Entry 1).

1. Petitioner is convicted and sentenced federal prisoner presently incarcerated in FCI Fort Dix, New Jersey. He was sentenced by the United States District Court for the Central District of Illinois on June 29, 2010. *United States v. Starns, et al.*, No. 06-20055 (C.D. Ill. Jun. 29, 2010).

2. Petitioner was represented on his direct appeal by Tracy Hightower, a private practitioner located in Omaha, Nebraska. Upon the conclusion of the direct appeal, Ms. Hightower did not return what Petitioner describes as "60 banker boxes of Federal Evidence" to him. (Motion at 2).

3. According to Petitioner, he has sought to have these boxes sent to him ever since the conclusion of his direct

appeal. On November 24, 2015, Petitioner mailed Ms. Hightower a letter indicating his desire to have these boxes shipped to him and requesting that she not do anything with the boxes until he has had time to seek assistance from the Court. (Petitioner's Exhibit A).

4. On February 8, 2016, Ms. Hightower sent a letter to Petitioner indicating that if he did not make arrangements to prepay the costs of shipping the boxes by March 21, 2016, she would begin shredding the documents. (Petitioner's Exhibit B).

5. Petitioner thereafter filed this motion for a TRO, which was received by the Clerk's Office on March 21, 2016.

6. Petitioner invokes this Court's jurisdiction under 28 U.S.C. § 2241. Section 2241 confers jurisdiction on district courts only for the purpose of issuing a writ of habeas corpus in response to a petition from a prisoner who is "in custody in violation of the Constitution or law and treaties of the United States." 28 U.S.C. § 2241(c)(3).

7. Petitioner does not allege his confinement or sentence violates the Constitution or laws of the United States. Rather, he alleges he has a private dispute with Ms. Hightower and that Ms. Hightower's refusal to send the evidence boxes to Petitioner violates the Model Rules of Professional Conduct. (Motion at 1). Therefore, this Court has no jurisdiction under § 2241 to hear

this matter, and the motion must be dismissed because this Court has no subject matter jurisdiction.

8. An appropriate order follows.

March 23, 2016
Date

s/ Jerome B. Simandle
JEROME B. SIMANDLE
Chief U.S. District Judge